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Viewing cable 09BOGOTA3185, UPDATE ON ILLEGAL WIRETAP SCANDALS

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Reference ID	Created	Released	Classification	Origin
09BOGOTA3185	2009-10-13 23:22	2011-08-30 01:44	SECRET//NOFORN	Embassy Bogota

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SUBJECT: UPDATE ON ILLEGAL WIRETAP SCANDALS

CLASSIFIED BY: Brian A. Nichols, Charge d'Affaires; REASON: 1.4(B), (C), (D)

SUMMARY

¶1. (S/NF) Colombian Government officials continue to engage in damage control in the wake of wiretap scandals embroiling the Administrative Department of Security (DAS) and the Prosecutor General's Office. The Prosecutor General's Office is investigating alleged crimes by former DAS officials as well as the more recent illegal wiretaps. In addition, the Prosecutor General's Office and Colombian National Police (CNP) have active probes into the misuse of the Prosecutor General's judicial intercept program known as the "Esperanza Platform." Charge reiterated the USG desire for full and transparent investigations and offered U.S. assistance in carrying them out. End Summary.

MULTIPLE INVESTIGATIONS INTO THE UNFOLDING SCANDAL

¶2. (C) Acting Prosecutor General Guillermo Mendoza announced on September 21 that an investigation had shown two prosecutors from his office -- not the DAS -- had been behind the illegal surveillance of Supreme Court auxiliary magistrate Ivan Velazquez. According to Mendoza, two prosecutors from his office inserted Velazquez's phone number into legal intercept requests in two unrelated cases. The monitoring itself took place in the Prosecutor General's "Esperanza" judicial wiretap facility, said Mendoza. Colombian National Police (CNP) Chief Oscar Naranjo acknowledged that three CNP officers were involved in the charade, adding there was "no justification" for the monitoring." The CNP judicial police (DIJIN) are aggressively investigating this aspect of the case, we have learned, but are waiting to arrest the suspects until the scope of the criminal links are discovered. The Prosecutor General's Technical Investigation Corps (CTI) is also conducting a separate investigation of these events.

GOVERNMENT DEFENDS INTERCEPT CAPABILITIES

¶3. (C) Top administration officials went on the offensive in the wake of these revelations. President Uribe alleged a "criminal vendetta" to discredit the GOC at home and abroad, while Vice President Francisco Santos said the scandals proved there was a "well-orchestrated plot" aimed at undermining the GOC's ability to fight crime. Minister of Interior and Justice Fabio Valencia told the press that "something smelled fishy" about the case and claimed the GOC had identified 12 companies that made and sold services for illegal wiretaps. DAS Director Felipe Munoz publicly said there was a black market for illegal wiretaps fed by corruption among mobile phone providers and private detective agencies. Munoz privately told us he had an "intuition" the recordings of Velazquez were aimed at embarrassing the administration, not to monitor the magistrate. Vice Prosecutor General Fernando Pareja also opined that the motive behind the Esperanza cases was to distract from the DAS wiretap scandal by creating the public impression that "everyone is doing it."

INVESTIGATING DAS WRONGDOINGS

14. (S/NF) Vice Prosecutor General Pareja told the Charge on October 9 that the Prosecutor General's office has broken down the DAS investigation into four parts, specifically:

-- Acts perpetrated by DAS personnel prior to January 2005, when the old inquisitorial system (Law 600) was in effect. Within this part are the allegations that former DAS Director Jorge Noguera, operating a secret operations cell named "G3," colluded with paramilitaries to instigate the murders of three unionists and a college professor. Prosecutor Patricia Rodriguez said the CTI had obtained ample documentary evidence of the activities of the G3 (ref A).

-- Activities carried out after January 2005 that fall under the new accusatorial system (Law 906). This investigation covers allegations against subsequent DAS Directors Andres PenateGiraldo and Maria PilarHurtado, when the DAS' "Group of National and International Observation" (GONI) allegedly carried out surveillance of civil society and the political opposition. Rodriguez said this investigation had essentially been misdirected from the start earlier this year. (Note: Leading news weekly "Semana" reported that Acting Prosecutor General Guillermo Mendoza had removed two prosecutors for improperly charging two former senior DAS officials and 12 others under the old system and for blatantly overlooking important evidence.) The new prosecutors had to begin from scratch, said Rodriguez. The investigation into these later crimes, she said, is more technical in nature, involving the exploitation of computer hard drives, etc., and will be more difficult given the higher evidentiary standards of the accusatorial system (ref B).

-- Without elaborating, Pareja said Mendoza had retained two of the DAS cases for his personal handling, presumably related to the irregularities mentioned above.

INVESTIGATION INTO "ESPERANZA" ABUSES PROCEEDS

15. (S/NF) Regarding the investigation into the "Esperanza Platform," Pareja said investigators were focused on how calls by Supreme Court Auxiliary Magistrate Ivan Velazquez -- the lead investigator of the links between members of Congress and the paramilitaries -- were leaked just nine days later to "Semana." Pareja noted that two separate listening rooms, one operated by CTI on behalf of the Colombian Army and the other by the Colombia National Police (CNP) anti-kidnapping group, had executed two legally authorized intercept orders on Velazquez in August. When a CTI analyst recognized Velazquez as a magistrate, the surveillance ended, only to be re-established by the CNP listening room the next day. Pareja said investigators had concluded that the intercept of the U.S. judicial attache speaking to Velazquez was "incidental," and not an action specifically targeted at a U.S. official. He noted that a second number was illegally piggy-backed onto authorized wiretap orders, this one belonging to Alexandria Valencia, a prosecutor assigned to the Inspector General's Office investigating the DAS scandal.

16. (S/NF) Pareja said that the Prosecutor General's Office had detected a total of 23 intercepts that were suspected of being improperly authorized via Esperanza. Pareja, a Bogota magistrate

whom Mendoza appointed in August as his number two, expressed surprise at the widespread access by government agencies to the Esperanza Platform. He was shocked, for example, at the public revelation that the Inspector General's Office had maintained its own listening room between 1996 and January 2009, unbeknownst to the Judicial and Executive branches. He was also taken aback that the City of Medellin had been hosting a listening room for prosecutors investigating organized crime in that city. He said both he and Mendoza were concerned about their own criminal and political liability for a system ostensibly under their control but with diverse points of access. He said the Acting Prosecutor General had ordered engineers to conduct a review of Esperanza and every listening room as a precaution and would make procedural changes to strengthen government oversight.

17. (C) The CDA urged the Acting Vice Fiscal to press the investigations under its purview so as to present a complete accounting of the wiretap scandals. The CDA offered the U.S. Embassy's assistance in achieving this goal, including the re-vetting of Colombian personnel working in DAS or with access to Esperanza who facilitate information-sharing with the United States.

18. (S/NF) CNP investigators told us October 13 that they have uncovered possible links among former DAS officials and the CNP officers who falsified the affidavits necessary to obtain the intercept warrants used to tap magistrate Ivan Velasquez' telephone. The CNP is following links among those responsible to determine how far the criminal conspiracy extends, before making arrests.
NICHOLS

=====CABLE ENDS=====